

MEETING RECORD

NAME OF GROUP:	PLANNING COMMISSION
DATE, TIME AND PLACE OF MEETING:	Wednesday, May 17, 2000, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska
MEMBERS IN ATTENDANCE:	Russ Bayer, Jon Carlson, Steve Duvall, Gerry Krieser, Patte Newman, Tommy Taylor and Cecil Steward (Linda Hunter and Greg Schwinn absent); Kathleen Sellman, Ray Hill, Jean Walker and Teresa McKinstry of the Planning Department; media and other interested citizens.
STATED PURPOSE OF MEETING:	Regular Planning Commission Meeting

Cecil Steward opened the meeting in the absence of the Chair and Vice-Chair.

Ann Harrell, Aide to the Mayor, presented a plaque to Barbara J. Hopkins in recognition of her years of service on the Planning Commission from 1991 to 2000. Chair Bayer arrived and read a resolution of appreciation from the Planning Commission into the record. Steward moved approval, seconded Duvall and carried 7-0: Bayer, Carlson, Duvall, Krieser, Newman, Taylor and Steward voting 'yes'; Schwinn and Hunter absent.

Chair Bayer requested a motion approving the minutes of the regular meeting held May 3, 2000. Motion for approval made by Duvall, seconded by Newman and carried 7-0: Bayer, Carlson, Duvall, Krieser, Newman, Taylor and Steward voting 'yes'; Schwinn and Hunter absent.

There was no Consent Agenda.

COUNTY SPECIAL PERMIT NO. 181,
POST ROCK PINES COMMUNITY UNIT PLAN,
and
COUNTY PRELIMINARY PLAT NO. 00008,
POST ROCK PINES,
ON PROPERTY GENERALLY LOCATED
AT SOUTH 120TH STREET AND FIRTH ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

May 17, 2000

Members present: Steward, Duvall, Taylor, Krieser, Carlson, Newman and Bayer; Schwinn and Hunter absent

Planning staff recommendation: Conditional approval.

Proponents

1. **Lyle Loth of ESP** presented the application on behalf of **Randy Miller**, the applicant. Loth agreed with all conditions of approval, except Condition #1.2 to rename Post Rock Road as South 127th Circle or Court. They had called it Post Rock Road and the County Engineer is requesting it be Post Rock Circle; however, if there is a valid reason to make it a numbered street, they will do so, but they would prefer to leave it named Post Rock Circle.

Steward asked the applicant to inform the Commission as to the future intent or rationale for the large outlot. Loth advised that it will be designated and remain AG for AG uses. Miller has the Post Rock buffalo farm and he raises buffalo. It is Loth's understanding that Miller will leave the outlot in pasture and continue to hay it for buffalo feed, etc. Steward believes it is unusual to see a request for a CUP with a huge outlot and yet the small lots do not have a relationship or a particular advantage from that designation. It looks like this might be an interim step to some other development plan in the future, which Steward would not be in favor of at all. Loth stated that that was not his understanding from his client. Loth would have the same concern if that were the case. However, the goal of the applicant is a CUP to get some dwelling units on the property, preserving most of it for AG uses.

Opposition

1. **Patricia Wells**, 12001 Firth Road, on the southeast corner of Firth Road & 120th Street, testified in opposition. Her objection is to the small lots and the houses. Where is the water coming from? Are they going to take the water coming down Hwy 43 and connect to that? Or are they going to drill individual wells? Or will it be one well? If you have more than 25 people on a well it must have certain qualifications. With the buffalo running, she is concerned. With the lay of the land she is concerned about flooding. Flooding has been known to take out her fences and the fences further south. She believes it's a bad idea

to put this development in a rural area. She has lived on this farm for 20 years and has watched Lincoln gallop towards places that were huge farms. We are in a drought. We've got a water problem. We've got soil erosion. The farmer is asked to do everything. She has not seen anyone tell her how we can make food out of concrete. Our land is just going, and it's something to really think about. Yes, this is a small project, but when you put it on the whole we are soon going to be on the Kansas line with no farm land left. Wells also raises cattle on her farm.

2. Ed Baker, 12707 Firth Road, to the east of the project, testified in opposition. He agreed with Wells. They have six different areas under the Firth Village jurisdiction that are being developed and the developers only have a few houses constructed and he is wondering whether it is feasible to develop more now. He questions the need.

3. Jan Stubbendeck, landowner at 120th & Firth Road, testified in opposition. She is not opposed to development in southern Lancaster County, but she does not agree with a development of this size on 60 acres. She does not believe there is enough water for 8 more acreages. She sunk a well 310' deep and she felt she had to go that deep because of the development that is going on. She does not believe there is availability of fire safety or law enforcement for this area. It takes 45 minutes to get a fire truck or police officer out there.

Staff questions

Steward asked staff about the water quantity and quality issue. Ray Hill of Planning staff referred to the staff report where reference is made to the Health Department finding that there is good quality and quantity of water. Steward asked whether there will be individual water wells. Hill advised that the applicant is indicating individual water wells and individual sewage disposal.

Bayer noted that the size of the property is 138.47 acres, and pointed out that "by right", the owner could build 6 dwelling units. Hill concurred, adding that the applicant could create those 6 dwelling units without subdivision approval. In that case, Bayer wanted to know what can happen to the rest of the land. Hill explained that the reason this applicant got the bonus was the fact that they have entered into a commitment to preserve that land forever as farm use. One of the design standards requires that if the property is in a rural area and the applicant shows they will preserve the surrounding farmland, then they get an additional 20% bonus, and have to reserve the area for AG purposes.

Bayer noted that we've had the clustering rule for a long time. Has anyone ever fought it and come in later and tried to do something on the AG land? Hill stated that this would not be possible without a change of zone. The CUP has used all the allowable density in this project, so any additional development on the land would require a change of zone. At that time, the staff would point out that they had received bonuses for preservation of the farm land.

Bayer asked for a staff response to the applicant's request concerning Condition #1.2. Hill advised that the subdivision ordinance talks about north/south roads being numbered. You could probably argue that this is not a straight road and they could be granted something other than a number.

Response by the Applicant

Loth noted the concern about flooding. There is not a condition in the staff report but he would be willing to provide information as to the flood elevations.

Duvall asked whether there has been a well in the area. Loth stated that there has not. When they first started the project, Loth's first phone call was to Jerry Hood at Health, who advised that this was the area where Firth got their water and to the best of his knowledge there was adequate quality and quantity in this area. He did not require any test wells for verification. He was not aware of any wells that have had a problem in that area.

Public hearing was closed.

COUNTY SPECIAL PERMIT NO. 181

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

May 17, 2000

Duvall moved approval, with conditions, seconded by Krieser.

Steward will vote against this community unit plan. It's a matter of acreage location and lack of designated area for us to be able to manage these type of developments in the public interest in terms of location and impact on the public resources. In addition to it being an isolated development in the midst of agricultural productive land, he believes there is a legitimate concern about water resources. There is a legitimate concern in this particular case in that we are using the CUP for the benefit of a cul-de-sac layout. He believes the bonus was intended to allow clustering in order to have the development advantage of the larger lot. But, when you have three lots backed up to the property line with no understanding of what might happen to the east, it just seems to him that we are putting down a very ordinary small acreage development and using the bonus advantage for what it was not intended. He is opposed on planning principles as well as design intent.

Newman agrees with Steward. She would like to see some sort of plan instead of helter/skelter acreages here and there. We need to decide how we're going to do this in the County.

Bayer stated that he supports acreages in the County, although he is becoming more concerned about the plan issue and believes the upcoming update of the Comprehensive Plan will address those concerns. We do have a county report and a system in place where this developer could build six lots without any approval and destroy the landscape. He believes they are conserving the rest of the land as farm land and doing what the ordinance requires.

Motion for conditional approval failed 3-4: Bayer, Krieser and Duvall voting 'yes'; Steward, Taylor, Carlson and Newman voting 'no'; Schwinn and Hunter absent.

Steward moved to deny, seconded by Newman and failed 4-3: Steward, Taylor, Carlson and Newman voting 'yes'; Bayer, Krieser and Duvall voting 'no'; Schwinn and Hunter absent.

This item is held over for administrative action on May 31, 2000. Public hearing has been closed.

PRELIMINARY PLAT NO. 00008

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

May 17, 2000

Duvall moved approval, with conditions, seconded by Krieser. Motion failed 3-4: Duvall, Krieser and Bayer voting 'yes'; Steward, Taylor, Carlson and Newman voting 'no'; Schwinn and Hunter absent.

This item is held over for administrative action on May 31, 2000. Public hearing has been closed.

SPECIAL PERMIT NO. 1830

**MANDARIN COURT COMMUNITY UNIT PLAN,
ON PROPERTY GENERALLY LOCATED
AT MANDARIN CIRCLE, NEAR SOUTH 84TH STREET
AND PIONEERS BLVD.**

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

May 17, 2000

Members present: Steward, Duvall, Taylor, Krieser, Carlson, Newman and Bayer; Hunter and Schwinn absent.

Planning staff recommendation: Denial.

Ray Hill of the Planning Department submitted a letter in opposition received from Gary Danek, President of the Pioneer/Mar-Ma-Ra-Lo Homeowners Association.

Steward moved approval, with conditions, seconded by Newman.

Steward commented that this application has had extensive review. We have all had a lot of time to contemplate. He agrees with Mr. Danek that this perhaps is setting a precedence, although each case will need to be judged upon its own merit. This application is creating smaller lots out of an acreage within an acreage neighborhood. This is precisely why he has been persistent about the Comprehensive Plan being more specific about where acreages are to be located. Those located within the growth pattern of the city are sooner or later, lot by lot, going to face this economic as well as planning concern. In this particular case, he believes the applicant has done a respectable job of respecting sight lines, of taking advantage of the topography, and assuring landscaping that will protect the sight lines of adjacent properties. It will be within the city service limits, and sooner or later, these acreages are going to over-tax, by proportion, the services of the city. However, he believes that this project is a means, an example, a way, of increasing the density in a very well-planned and well thought-out way.

Duvall agrees with Steward. It's obvious that as the city grows, these things are going to happen. A policy is going to have to be developed. These acreages are going to be affected and probably shrunk in size.

Newman commented that she will justify voting in favor because it is a total of two acres and from the street you will not see all three houses because of the landscaping. She is concerned that down the road we will run into this again. She wants to see a plan. But, she believes this one will be done well.

Carlson stated that he would echo all comments he has heard but he is not arriving at the same opinion. He walked the site and was absolutely impressed with the amenities and the degree at which Speidell has sited the properties and worked with the neighborhood. But, he has a problem with the ad hoc decision-making. He voted against previously because we need a comprehensive policy in place. If this decision serves as the beginning of that, then so much the better. We need to have a policy in place that talks about where appropriate acreage development is going to take place and what will happen when the city annexes and takes these in. He did not find a lot of guidance in the Comprehensive Plan. He referred to p.52, where it talks about the goals of Low Density Residential: Preserve, protect and promote the character and unique features of rural and urban neighborhoods. So, in the absence of anything else pointing him in any other direction, he is starting to lean in that direction. Maybe the community needs to make the decision on these acreages. We have a history of community involvement and he believes we need to get a policy in place before we make too many more decisions like this. He will vote against this development. However, if it is approved, he does not believe we can find a better applicant than Speidell to make that policy. He is not comfortable with making ad hoc policy at this point.

Taylor indicated that he has been torn from the beginning. He is in favor of what they are doing, but his concern has been the neighbors and their future view of that area. A person wants to vote both ways, but at this point he really thinks the applicant has done a

commendable job and the best he could to appease the neighbors. He does not like to vote against the neighbors, but he will be voting in favor.

Bayer believes there is a difference here between “acreages” in the county and “acreage neighborhoods” in the county. He thinks this one is an acreage neighborhood. This was developed as a neighborhood with the intent of having a number of 3-acre or smaller lots built into a neighborhood. He is supporting the neighborhood concept as opposed to the development concept in this case. He will vote against the motion.

Motion for approval of the revised application as submitted on April 19, 2000, with conditions, carried 5-2: Steward, Duvall, Taylor, Krieser and Newman voting ‘yes’; Carlson and Bayer voting ‘no’; Schwinn and Hunter absent.

There being no further business, the meeting was adjourned at 1:45 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on May 31, 2000.